

APPEAL NO. 023174
FILED FEBRUARY 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 19, 2002. The appellant/cross-respondent (self-insured) appeals the hearing officer's determinations that the respondent/cross-appellant (claimant) sustained a compensable injury on _____; that the self-insured waived its right to dispute compensability of the claimed injury; and that the claimant had disability beginning February 21, and ending May 3, 2001. The claimant appeals the hearing officer's determination that disability ended on May 3, 2001. The self-insured responds to the claimant's cross-appeal.

DECISION

Affirmed.

The hearing officer determined that the self-insured received notice of the claimant's injury on _____. The self-insured, in its TWCC-21, admitted written notice of the alleged injury on (alleged injury), and did not file its dispute of the claim until March 19, 2001. Here, the self-insured clearly failed to either dispute or pay benefits as required by Section 409.021.

In addition, we note that the hearing officer determined that the claimant was in fact injured in the course and scope of his employment. In Continental Casualty Company v. Williamson, 971 S.W.2d 108 (Tex. App.-Tyler, 1998, no pet.), the court held that "if a hearing officer determines that there is no injury, and that finding is not against the great weight and preponderance of the evidence, the carrier's failure to contest compensability cannot create an injury as a matter of law." We have previously recognized that Williamson is limited to situations where there is a determination that the claimant did not have an injury, that is, no damage or harm to the physical structure of the body, as opposed to cases where there is an injury which was determined by the hearing officer. Texas Workers' Compensation Commission Appeal No. 000604, decided May 10, 2000.

There was conflicting evidence offered as to whether the claimant sustained a compensable injury and had disability from that injury. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence, as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decision is supported by sufficient evidence.

We affirm the decision and order of the hearing officer.

The true corporate name of the certified self-insured is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Roy L. Warren
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge